

**LOCAL RULES OF PRACTICE AND PROCEDURE
OF THE
DOMESTIC RELATIONS DIVISION
OF THE MAHONING COUNTY COURT OF COMMON PLEAS
Effective March 1, 1998
Including Amendments Effective April 20, 1999, August 8, 2000
and March 22, 2001**

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**RULES OF THE COURT OF COMMON PLEAS
DOMESTIC RELATIONS DIVISION**

MAHONING COUNTY, OHIO

GENERAL RULES

RULE 1

ADOPTION, SCOPE AND CONSTRUCTION OF RULES

1.01 Adoption, Scope and Construction of Rules

- (A) **Adoption:** The Domestic Relations Court of Mahoning County, Ohio hereby adopts the following Rules for the management of proceedings of the Court pursuant to Article IV, Section 5(B) of the Ohio Constitution and Rule 9 of the Ohio Supreme Court Rules of Superintendence for Courts of Common Pleas.
- (B) **Scope:** These Rules are intended to supplement and complement the Ohio Rules of Civil Procedure and the Rules of Superintendence of the Supreme Court of Ohio.
- (C) **Construction:** These Rules shall be applied, construed and enforced so as to avoid inconsistency with other rules of court and statutes governing proceedings of this Court. In their application, they shall be construed so as to provide fairness and to secure just, expeditious and inexpensive determination of all proceedings. They shall apply to proceedings pending at the time they take effect.
- (D) **Citation:** As used in these Rules, "Civ. R." is a reference to the Ohio Rules of Civil Procedure and "Sup. R. ____." is a reference to the Rules of Superintendence for the Supreme Court of Ohio. These Rules shall be cited as "Local Rules" or "Loc.R. ____".
- (E) **Effective:** These Rules shall be effective March 1, 1998 and supersede all previous rules promulgated by this Court.

RULE 2

COURT COSTS

- 2.01 **Costs/Deposits:** The Clerk of Court shall not accept any action or proceeding for filing without a deposit as security for costs in the amount set forth in the Schedule of Filing Fees/Deposits as set forth in the Appendix. The Mahoning County Child Support Enforcement Agency (hereinafter CSEA) filings are exempted from this requirement.
- 2.02 **Indigence:** In the case of indigence, the court cost requirement is met by filing a poverty affidavit, as set forth in the Appendix, stating that the party is without funds or assets to pay the deposit and a certification by the attorney, if any, that no or nominal attorney fees have been paid. The filing of a poverty affidavit does not relieve a party from liability for court costs. If, during the course of a proceeding, the Court learns that either party, is, or has become, able to pay the applicable costs, the Court may order either party to pay the deposit within a reasonable time.
- 2.03 **Responsibility for Costs:** All Judgment Entries shall contain a provision for payment of costs as ordered by the Court. In the absence of Court order, after application of all deposits, the balance of costs shall be divided equally between the parties.
- 2.04 **Special Assessments:** Pursuant to R.C. 2303.201 and R.C. 2303.202, the Court has determined that additional fees are necessary to pay for computerization of the Court and the Clerk of Court, Legal Research Services and Dispute Resolution Procedures. Accordingly, the Court will from time to time, authorize and direct the Clerk of Court to charge additional fees on the filing of each Complaint for Divorce, Legal Separation, Counter-claim, Petition for Dissolution of Marriage and other post decree/divorce Motions.

RULE 3

FILING AND REMOVAL OF PAPERS FROM CUSTODY OF THE CLERK

- 3.01 **Filing of Papers:** The Clerk of Court shall file and preserve all papers delivered to the Clerk for that purpose. The Clerk shall not accept or journalize on its docket any Entry, Decision or Order until it is signed by the Judge or Magistrate.
- 3.02 **Removal:** No person, except a Judge, Magistrate, Court Clerk, or their employees, shall remove any documents or case files from the Clerk of Court. Upon request, the Clerk shall allow any person to examine, but not remove, any original document or case file that is maintained by its office. Examination shall be allowed during the regular business hours of the Clerk.

RULE 4

ASSIGNMENT OF DOMESTIC RELATIONS CASES

- 4.01 **Assignment Commissioner(s):** The Court shall designate Assignment Commissioner(s) for divorce, legal separation, annulment, dissolution of marriage and all other cases filed in the Division. Prior to filing a Petition for Dissolution of Marriage, the parties or attorney shall secure a hearing date from the Assignment Commissioner. The Assignment Commissioner shall assign for final hearing, all uncontested and contested divorces, legal separations, annulment, and all other cases filed.
- 4.02 **Uncontested Status:** A divorce or legal separation case shall be deemed uncontested unless an Answer is filed within twenty-eight (28) days after service of the Summons and Complaint upon Defendant. If the service of notice has been made by publication, Defendant shall file an Answer within twenty-eight (28) days after the completion of service of publication.
- 4.03 **Divorce Hearing Date:** Pursuant to Civ. R. 75 (J), no action for divorce, legal separation, or annulment may be heard and decided until the expiration of forty-two (42) days after the service of process or twenty-eight (28) days after the service of a counterclaim, which under this rule may be designated a cross-complaint, unless the Plaintiff files a written waiver of such twenty-eight (28) day period.
- 4.04 **Continuances of Final Hearing:** Once a case is assigned for final hearing or trial, it may be continued only by leave of Court for good cause shown.

RULE 5

POWERS OF THE MAGISTRATES

- 5.01 **Authority:** All Magistrates shall be awarded all of the powers set forth in Civ. R. 53, as amended July 1, 1995. The Magistrates are further awarded all other powers as set forth in the Journal Entries of this Court and the statutes of this state.

RULE 6

EX-PARTE COMMUNICATIONS

- 6.01 **Ex-Parte Communications:** No attorney or party shall discuss the merits, either orally or in writing, of any litigation with the Judge or Magistrate presiding over the matter without the presence of opposing counsel or the party, if not represented by counsel.

RULE 7

OUT OF STATE COUNSEL

- 7.01 **Out of State Counsel:** Attorneys admitted to practice law in other states, but not in Ohio, may request permission from the Court to appear pro hac vice. The decision of whether to permit representation by out-of-state counsel is a matter within the discretion of the Court. An attorney admitted to the bar of the State of Ohio must be co-counsel and shall be the "attorney of record" who is officially responsible for the case.

PLEADINGS, MOTIONS AND ORDERS

RULE 8

GENERAL RULES OF PLEADING

- 8.01 **Form:** Unless otherwise provided herein, all pleadings, motions, and other filings shall comply in form and content with the Ohio Rules of Civil Procedure, the Rules of Superintendence of the Supreme Court of Ohio and the Local Rules of this Court as set forth below:
- (A) **Caption:** All Complaints, Petitions, Answers, Counterclaims, Motions, Orders and Decrees shall state the name, address, Social Security Number, Date of Birth and Employer, of both parties.
 - (B) **Subsequent Petition Captions:** In cases commenced by Petition, the subsequent captions shall remain the caption of the original Petition. Parties shall be designated by their names in the body of subsequent pleadings.
 - (C) **Paper Size:** All Pleadings, Motions and Orders shall be typewritten or printed on 8½" x 11" paper.
 - (D) **Attorney Identification:** All Pleadings, Motions and Orders shall include the name of the attorney, the firm name, if any, office address, office telephone number, fax number, if any, and the attorney's Ohio Supreme Court Number.
 - (E) **Content of Motions:** All Motions shall state with particularity the grounds therefore, the relief or order sought and shall identify any prior Order(s) at issue.
 - (F) **Separate Documents:** All Separation Agreements and Shared Parenting Plans filed with the Court must be submitted as a separate document styled as a "Separation Agreement" or "Shared Parenting Plan", and not included in the body of the pleadings.
- 8.02 **Initial Filings:** All Complaints, Answers and Counterclaims shall be accompanied by the following documents in the order as they appear below:

1. Parenting Affidavit (If there are minor children)
2. Affidavit of Income, Expenses and Financial Disclosure (see appendix)
3. Mutual Restraining Order (see appendix)
4. IV-D Application (To include current mailing address, current residence address, current residence telephone number and current driver's license number.

The above forms are available from the Court.

8.03 **Special Filings**

- (A) **Parenting Affidavits:** In all post-divorce Motions seeking a reallocation of parental rights and responsibilities, the parties shall file a Parenting Affidavit pursuant to R. C. 3109.27. Motions seeking modification of visitation shall not require a Parenting Affidavit.
- (B) **Notice of Intent to Relocate:** A Notice of Intent to Relocate must be filed in every case in which the residential parent intends to move to a new location either within or out of the State of Ohio. (Forms are available from the Court.)
- (C) **Summons and Order to Appear:** All Motions for Contempt or To Show Cause, shall be accompanied by a Summons and Order to Appear, as set forth in the Appendix, approved by the Court or Magistrate.

8.04 **Mutual Restraining Order:** In all cases after the initial Complaint has been filed, both parties are restrained from the actions set forth in the Court's Mutual Restraining Order. Upon Plaintiff's filing of a Complaint, Plaintiff is deemed to have notice of the Mutual Restraining Order.

8.05 **Clerk Shall Require Conformity:** The Clerk of Court may not receive for filing any pleadings which do not conform to this rule.

8.06 **Leave to Plead:** Leave to plead may be obtained only by written motion to the Court and for good cause shown. The motion shall set forth the number of leaves to plead previously obtained and the total length of those leaves.

8.07 **Scheduling:** All motions shall first be scheduled for hearing by the Assignment Commissioner, then filed with the Clerk of Court and shall be subject to either affidavit or evidentiary hearing. The Assignment Commissioner shall refuse to accept for filing any motion which fails to comply with these Rules.

8.08 **Continuances**

- (A) **Motions:** All Motions for continuance shall be in writing. The movant shall first attempt to secure the consent of opposing counsel, if represented. The Motion shall set forth whether consent was obtained or denied and shall state the number of prior continuances and the reason therefore. If the Motion is granted, the party seeking the continuance must obtain a new hearing date and shall immediately notify the opposing party or counsel. All continuances must be approved by the Court or Magistrate. The Order of the Magistrate shall be upheld.
- (B) **Unavailability of Witness:** When a continuance is requested because a witness is unavailable for a scheduled hearing or trial, the Court may consider alternative methods for receiving the testimony.
- (C) **Conflict of Trial Assignment Dates:** When a continuance is requested for the reason that counsel is scheduled to appear in another case assigned for trial on the same date in a different court, the case that was first set for trial shall have priority, pursuant to Sup. R. 41 (B). The Court will not consider any Motion for continuance unless a copy of the conflicting assignment is attached to the Motion and the Motion is filed not less than fourteen (14) days prior to trial.
- 8.09 **Engaged Counsel:** Pursuant to Sup. R. 41(C), if a designated trial counsel has such a number of cases assigned for trial in this or other courts as to cause undue delay in the disposition of such cases, the Judge may impose sanctions against said attorney and may limit the number of cases in which the attorney may serve as counsel in this Court.
- 8.10 **Determination of Motions without Oral Hearing:** Pursuant to Civil Rule 7(B), the Court may, to expedite its business, determine motions without oral hearing upon the submission of brief written statements of reasons in support and opposition.

RULE 9

SERVICE

- 9.01 **Service of Pleadings:** A party requesting service by the Clerk of Court must file instruction for service regardless of the form of service requested. Any request for service of a

Complaint, Counterclaim, Motion, Order, or other paper requiring service pursuant to the Ohio Rules of Civil Procedure shall be accompanied by a time-stamped copy of the paper to be served.

9.02 **Process Server (One-Time Appointment):** If a party desires personal service to be made by a special process server pursuant to Civ. R. 4.3(B)(2), that party or counsel must file with the Clerk of Court an Entry appointing a special process server. The following must be stated in the entry of appointment:

- (A) The name of the person to be appointed as a process server;
- (B) That the person to be appointed as process server is 18 years of age or older;
- (C) That the person to be appointed as process server is not a party or counsel for a party in the action.

9.03 **Process Server (Continuing Appointment):** A person may apply to be designated as a "Standing Special Process Server" for cases filed in this Court by filing an application prescribed by the Court, as set forth in the Appendix.

9.04 **Service by Publication:**

(A) **When Proper:** In accordance with Civ. R. 4.4, service by publication shall only be available when the residence of a Defendant is unknown and due diligence is demonstrated by proper affidavit that the address cannot be discovered. The Court must give prior approval for service by publication.

(B) **Responsibility:** In all cases when service of process is to be accomplished by publication, it shall be the responsibility of the party to ensure that the publication is accomplished.

(C) **Confirmation:** Upon completion of the last publication of service, the party shall file with the Court an Affidavit showing the fact of publication, together with a copy of the Notice of Publication. The affidavit and its exhibits shall constitute the proof of service.

(D) **Posting Locations in Indigence Cases:** Pursuant to Civ. R. 4.4(A)(2), this Court hereby designates the following two (2) additional posting locations in Mahoning County for the purpose of service by publication:

Struthers Municipal Building
6 Elm St.
Struthers, Ohio 44471

Mahoning County Court #3
605 East Ohio

RULE 10

TEMPORARY ORDERS BY AFFIDAVIT OR ORAL HEARING

- 10.01 **Request for Affidavit Order:** Temporary Orders in cases of divorce or legal separation shall be issued on the basis of Affidavits pursuant to Rule 75(N) of the Ohio Rules of Civil Procedure. If a party to a divorce or legal separation wants the Court to issue orders concerning temporary allocation of parental rights and responsibilities, temporary child support, temporary spousal support, or allocation of debts and expenses during pendency, the party requesting temporary orders shall file a Request for Affidavit Order (forms are available at the DR Court). The Request may be filed with the initial Complaint, or it may be filed after the Complaint is filed. Any Request for Affidavit Order shall be accompanied by the Court's Affidavit of Income, Expenses and Financial Disclosure, Parenting Affidavit and IV-D Application (forms available at the Court on request). It is the responsibility of the attorney for the party requesting an Affidavit Order to provide a copy of the Request for Affidavit Order and Financial Affidavit to the Domestic Relations Assignment Commissioner.
- 10.02 **Affidavit by Opposing Party:** The other party may file a Counter Request for Affidavit Order or Affidavit of Income, Expenses and Financial Disclosure within fourteen (14) days of being served with the Request for Affidavit Order. Unless previously filed, any Counter Request shall be accompanied by the Court's Affidavit of Income, Expenses and Financial Disclosure, Parenting Affidavit and IV-D Application (forms available at the Court on request). Any party filing a responsive document as described above shall take a copy of the document(s) to the Domestic Relations Assignment Commissioner so that it may be considered by the Magistrate at the non-oral hearing on affidavit orders.
- 10.03 **Scheduling of Hearing:** When the party requesting an Affidavit Order provides a copy of the Request for Affidavit Order to the Domestic Relations Assignment Commissioner, the Assignment Commissioner shall set the Request for Affidavit Order for a non-oral hearing on the Magistrate's Docket.
- 10.04 **Service on Opposing Party:** Any party filing the Request for Affidavit Order shall mail a copy of the Request to the opposing party.
- 10.05 **Evidence and Order:** The Court shall consider the sworn affidavits of the parties and may, upon review of same, issue an Order concerning the relief requested. The Court also may, upon review of the affidavits submitted, refuse to issue a 75 (N) order, or may set the matter for an oral hearing.
- 10.06 **Motion for Oral Hearing:** Upon the issuance of a 75 (N) Order, either party may file a motion for an oral hearing to have the Court consider modification of its prior Order. A

Motion for an oral hearing must state with particularity the reason why an oral hearing is required. The Motion must be filed with the Clerk of Court after the moving party obtains a hearing date from the Domestic Relations Assignment Commissioner. Unless the Judge or Magistrate grants a stay, a motion for oral hearing shall not suspend the Temporary Order.

RULE 11

ADDITIONAL EX-PARTE ORDERS

11.01 Ex-Parte Orders

(A) **Civ. R. 75(H):** In addition to Temporary Orders by Affidavit, pursuant to Loc. R. 10, and Mutual Restraining Orders, the Court may issue Ex-Parte Orders, with or without bond, pursuant to Civ. R. 75(H), when it is made to appear to the Court by affidavit that:

1. The opposing party is about to dispose or encumber property, or any part of property, so as to defeat the other party in obtaining spousal support or an equitable division of the marital property.
2. A party to the action, or a child, is about to suffer physical abuse, annoyance, or bodily injury by the other party.

The Restraining Order may be issued without notice and shall remain in force during the pendency of the action unless the Court or Magistrate otherwise orders.

Prior to the issuance of an Ex-Parte Order, the party seeking the same shall make a good faith effort to provide opposing counsel, if any, with notice of the application to the Court for such relief.

(B) **Parenting and Visitation Issues:** No Ex-Parte Orders concerning parenting or visitation shall be issued except in emergency situations where third party independent corroboration of the danger is provided by credible testimony from sources including but not limited to the police or a children's services agency. When family violence is involved, domestic violence procedures should be followed.

(C) **Notice of Hearing:** When an Ex-Parte Order is granted, a hearing shall be scheduled and held promptly, and as soon as is practicable, to determine whether the Order is required. The party granted the same shall make a good faith effort to provide opposing counsel and unrepresented adverse parties with immediate notice of the hearing date.

(D) **Bond:** The posting of bond is within the discretion of the Court.

- (E) **Dissolving of Orders:** A party against whom an Ex-Parte Restraining Order was issued may file a motion, supported by affidavit, requesting that the Order be dissolved. In the absence of agreement of the parties as to the terms and conditions for dissolving such Orders, the matter shall be set for hearing before the Judge or Magistrate.

RULE 12

CONTEMPT AND MOTIONS TO SHOW CAUSE

12.01 **Contents of Motion:** All Motions shall contain the following:

1. A reference to the date and language of the former Order to which the Motion relates.
2. Specific facts, or an affidavit setting forth specific facts, forming the basis for the Motion.
3. The Motion shall contain the Court's official Summons and Order to Appear signed by the Court or Magistrate.
4. Motions for contempt shall be served pursuant to Civ. R. 4 through Civ. R. 4.6.
5. The Court may dismiss any Motion which fails to comply with this rule.

12.02 **Attorney Fees:** Attorney fees will be awarded in any contempt action involving child support, visitation or spousal support. Absent evidence to the contrary, a fee of \$275.00 shall be considered a presumptively reasonable fee without the necessity of formal proof.

12.03 **Appointment of Attorney in Contempt Actions:** The Court will appoint counsel to indigent parties upon their completion of the requisite Indigency Certification Form and a finding of inability to pay attorney fees. In accepting the appointment, the attorney shall accept no compensation beyond that awarded by the Court.

12.04 **Payment of Fees:** Within fourteen (14) days of the conclusion of the case, the appointed attorney shall submit the required form for payment of fees.

RULE 13

OBJECTIONS TO DECISION/MOTION TO SET ASIDE

- 13.01 **Magistrate's Decision:** Objections to a Magistrate's Decision must be filed within fourteen (14) days of the date on which the Magistrate's Decision was filed with the Clerk of Court. The opposing party may file an objection or response within ten (10) days after the first objection. The filing of said Objections shall stay the Magistrate's Decision until the ruling of the Judge is rendered.
- 13.02 **Magistrate's Order:** To appeal a Magistrate's Order, a Motion to Set Aside the Order must be filed within ten (10) days of the date on which the Magistrate's Order was filed with the Clerk. The Order is not stayed unless the Judge or the Magistrate grants a stay.
- 13.03 **Hearing Date Obtained:** Prior to the filing of Objections or a Motion to Set Aside, a hearing date must be obtained from the Court's Assignment Commissioner. The hearing date shall be set forth in the Objections or Motion and served upon the opposing counsel and party in accordance with the Civil Rules.
- 13.04 **Transcripts:** Objections or Motions to Set Aside shall be supported by a transcript of all the evidence submitted to the Magistrate relevant to that fact or an affidavit of that evidence if a transcript is not available. A transcript shall not be required if the objection is only to an issue of law. The transcript must be filed by the moving party within thirty (30) days of the filing of the objection unless the Court, in writing, extends the time due to the inability of the reporter to complete the transcript of the testimony.
- (A) **Written Request:** The moving party shall make a written request for the transcript within three (3) days of the filing of the Motion to Set Aside or Objections. At the time the transcript is ordered, the attorney or party shall arrange for payment of the court reporter.
- (B) **Dismissal for Non-Compliance:** Failure to file a transcript, when required shall result in dismissal of the Motion to Set Aside or the Objection.

PRE-TRIAL & TRIAL RULES

RULE 14

DISCOVERY

- 14.01 **Discovery Procedures**

- (A) **In General:** Civil Rules 26 through 37 shall apply to any action. The purpose of this Rule is to encourage prompt and complete discovery to avoid the Court's involvement in the discovery process.
- (B) **Mandatory Disclosure:** Each party has the affirmative duty, within seventy-five (75) days of the filing of an Answer or Counterclaim, to disclose to the other party the following information and documents which are included in the Court's Mandatory Discovery Order as set forth in the Appendix of these rules.
- (1) All pension and profit-sharing plans including the most recent plan summary.
 - (2) All COBRA benefits to which the other party may be entitled.
 - (3) Copies of all real estate deeds, vehicle titles and registration, unless already in the possession of the other party.
 - (4) All appraisals of real estate or personal property or any business property in which the party holds an interest.
 - (5) Copies of the last three (3) years individual tax returns, unless already in the possession of the other party.
 - (6) Documentary proof of current income from all sources.
 - (7) Copies of the most recent statements on all bank accounts, IRA's, stock accounts, mortgages, credit card accounts, and other debts.
 - (8) Copies of all notes or accounts receivable whether held personally or through a business.
 - (9) Copies of all life insurance policies and the valuation.
 - (10) Documentation of the value of household furnishings, valuables and collectibles.
 - (11) Documentation of property that qualifies as separate property and the valuation of same with tracing of assets and verification.
- (C) **Authorization:** All parties shall sign any authorization necessary for the opposing party to obtain full and detailed wage, benefit and pension information.
- (D) **Sanctions:** Failure to comply with this rule, may result in sanctions pursuant to Civ. R. 37, including but not limited to contempt citations, award of attorney fees, litigation expenses, possible dismissal of claims, or restrictions on the

submission of evidence.

RULE 15

STATUS CONFERENCES

- 15.01 **Status Conferences:** The Court may schedule a status conference in parenting cases or in any other action before the Court. Notice shall be sent to all parties pursuant to the Civil Rules. The Judge and Magistrates shall have discretion to conduct a status conference by telephone with both counsel.

RULE 16

PRE-TRIAL CONFERENCES

- 16.01 **Purpose:** A pre-trial conference may be held in every contested case. The purpose of the conference is to encourage settlement.
- 16.02 **Pre-trial Statement:** A Pre-trial Statement on the form set forth in the Appendix of these Rules shall be filed and served on the opposing party at least seven (7) days prior to the scheduled pre-trial conference, or seven (7) days prior to an uncontested divorce.
- 16.03 **Attendance by Counsel:** The attorneys who will be present at trial shall attend all pre-trial conferences except with leave of court. A continuance may not be granted on the grounds that the trial attorney is not prepared to go forward if he or she has failed to attend the pre-trial conference. Failure to attend or comply with the requirements of this rule may result in sanctions.
- 16.04 **Attendance by Parties:** All parties must be present at the pre-trial conference, except with leave of court.

RULE 17

TRIALS

- 17.01 **Exhibits:** All exhibits shall be marked prior to the hearing, Plaintiff using numbers and Defendant using letters. Not less than two (2) court days prior to trial, the parties shall submit to the court and the opposing party, a final list of all documents to be introduced at trial. At trial, the Court will not admit any exhibits not timely listed, except for rebuttal purposes or for good cause shown.

- 17.02 **Witnesses:** Not less than two (2) court days prior to trial, the parties shall submit to the Court and the opposing party a final list of all witnesses who will testify at trial. At trial, the Court will not admit the testimony of any witnesses not timely listed except for rebuttal purposes or for good cause shown.
- 17.03 **Failure to Comply:** Failure to comply with the above may result in sanctions against the non-complying attorney or party.
- 17.04 **Trial Briefs/Findings and Conclusions:** The Court may require the parties to file Trial Briefs and/or Proposed Findings of Fact and Conclusions of Law.
- 17.05 **Attorney Fees:** An award of attorney fees is discretionary with the Court and shall be awarded in accordance with the following protocol and considerations:
1. A request for attorney fees and expenses to prosecute an action shall be made in writing and shall be included in the body of a motion or other pleading that gives rise to the request for fees.
 2. At the time of the final hearing on the motion or pleading that gives rise to the request for attorney fees, the attorney seeking such fees shall present:
 - (a) Testimony and an itemized statement describing the services rendered, the time for such services, and the requested hourly rate for in-court time and out-of-court time.
 - (b) Testimony as to whether the case was complicated by any or all of the following: new or unique issues of law; difficulty in ascertaining or valuing the parties' assets; problems with completing discovery; any other factor necessitating extra time being spent on the case; testimony regarding the attorney's years in practice and experience in domestic relations cases; evidence of the parties' respective income and expenses, if not otherwise disclosed during the hearing.
 3. Expert testimony other than the attorney requesting fees is required to prove both the necessity and reasonableness of attorney fees.
 4. Failure to comply with the provisions of this rule may result in the denial of a request for attorney fees.
 5. Any attorney fee award made by this Court must be entered in favor of a party litigant and not in favor of a party's attorney. Such fee may be ordered payable through the CSEA.

RULE 18

COURT APPOINTMENT OF VALUATION EXPERTS

- 18.01 **When used:** Whenever the value of an asset is in dispute, the Court may, upon motion of either party, or upon the Court's own motion, and for good cause shown, appoint an expert for the purpose of appraisal.
- 18.02 **Content of Order:** The Order of appointment shall state specifically the property to be valued, the name of the expert, the allocation of any costs or fees, and what advancement, if any, is to be made to the expert. The Order shall state that the parties are to cooperate fully with the expert.

RULE 19

DIVISION OF PROPERTY

- 19.01 **Personal Items:** Each party shall be awarded those items brought into the marriage, personally inherited, or received as an individual gift. Each party shall also be awarded their own books, papers, creations, mementos, jewelry, family heirlooms, and other personal possessions. Any family photos, home videos, music collections, and similar items shall be equally divided between the parties by agreement, or duplicated with each party paying one-half of the cost of duplication.
- 19.02 **Children's Items:** If there are minor children, all furniture, clothing, and toys primarily used by the children shall be retained by the residential parent.
- 19.03 **Waiver of Valuations:** The Court will permit the parties to waive the valuation of any asset providing that they mutually agree to its division and equitable distribution.
- 19.04 **Appraisal of Real and Personal Property:** Unless the parties have agreed in writing and stipulated to the value of real and personal property, such property shall be appraised prior to trial. A single appraiser is satisfactory to the Court if agreed upon by the parties; otherwise, each party shall procure his/her own appraisal and the following shall be applicable:
- 1) NADA Blue Book values for automobiles will be accepted in lieu of appraisal, provided the automobile is not an antique or of some special valuation.
 - 2) The opinion of the parties or their counsel as to the value of their real and personal property, absent consent and agreement of each as to a single

valuation, or absent an appraisal or written stipulation as aforesaid, will generally not be accepted as proof of value.

- 3) The property subject to appraisal under this rule shall include, but not be limited to, the following: pensions, retirement plans, real estate, disputed household goods and furnishings, jewelry, items of personal property which are unique, such as antiques, heirlooms and property which do not have a readily ascertainable value.

19.05 **Sanctions:** Failure to comply with this rule may result in dismissal of the case, the Court's appointment of an appraiser, or other sanctions which may be imposed by the Court.

RULE 20

MEDICAL EXPENSE SCHEDULE

20.01 **Standard Order:** Pursuant to R.C. 3113.217, the Court has adopted the following standard Medical Expense Schedule for the parties equitable sharing of medical expenses not covered by insurance:

"The parties shall share the cost of all medical, dental, optical, hospital and prescription expenses not covered by insurance incurred by each child that is the subject of the support order as follows:

- A. The party receiving child support (the Obligee) shall pay the first \$100.00 per child per calendar year of said expenses and _____% thereafter in accordance with the most recent Ohio Child Support Worksheet Computation attached to the Order.
- B. The party paying child support (the Obligor) shall pay _____% of the above expenses in excess of One Hundred (\$100.00) Dollars per calendar year under the Worksheet Computation within thirty (30) days of notification of the expenditure.
- C. The parties' percentage obligations above shall change as subsequent modifications of child support occur by order of the Court."

RULE 21

QUALIFIED MEDICAL CHILD SUPPORT ORDER (QMCSO)

- 21.01 **Procedure:** In all cases involving employer-provided group health plans, as defined in Employment Retirement Income Security Act of 1974 Section 607(1), and requested by the employer, a QMCSO shall be issued identifying the medical, dental, optical and other health benefits, if any are available, as well as listing the child(ren) of the parties, who shall be designated as the "Alternate Recipients". The Alternate Recipients shall be enrolled in the group health care plans and shall receive all medical, dental, optical and other health benefits available under any of the employer's group health plans, as if they meet all the requirements of a dependent and thus are dependents under the group health plans. Counsel for the party or parties shall provide the Court with a QMCSO.

RULE 22

DISSOLUTION OF MARRIAGE

- 22.01 **Scheduling:** Prior to filing a Petition for Dissolution of Marriage with the Court, the attorney for the Petitioner, or in the event both Petitioners are represented by counsel, the attorneys shall obtain a hearing date from the Assignment Commissioner. If a Shared Parenting Plan is included with the Petition, an additional copy of the same shall be submitted to the Court for review.
- 22.02 **Decree:** The Decree, together with all necessary orders and copies, shall be supplied to the Court prior to the hearing.
- 22.03 **Workshop for Parents:** In order for Dissolutions with minor children to be granted, both parties shall have attended the Court's Workshop for Parents. The Decree will not be signed until certification of attendance is provided to the Court. If no certification is received within ninety (90) days of the filing of the Petition, the same shall be dismissed.
- 22.04 **Attendance:** Absent special circumstances, if either party fails to appear at the Dissolution Hearing, the Court shall dismiss the same.
- 22.05 **Disagreement:** Pursuant to R.C. 3105.65, if at the time of the hearing, either spouse is not satisfied with the Separation Agreement, or does not wish a dissolution of the marriage, the Court shall dismiss the petition and refuse to validate the proposed Separation Agreement.
- 22.06 **Conversion of Dissolution Action to Divorce Action:** Pursuant to R.C. 3105.65, an action for dissolution may be converted to an action for divorce upon the filing of a Motion, along with a Complaint for Divorce and any necessary affidavits. The Motion and the Complaint shall be submitted to the Court along with an Entry Converting Dissolution to Action for Divorce, as set forth in the Appendix. If the Motion is approved, the divorce action shall

proceed in accordance with the Civil Rules in the same manner as if the Motion had been the original Complaint.

RULE 23

DIVORCE HEARINGS

23.01 Scheduling

(A) **Uncontested Divorce:** The Court will not hear an uncontested divorce earlier than forty-two (42) days after the service of the Complaint. Counsel for the Plaintiff may schedule the final hearing twenty-eight (28) days after the completion of service upon the Defendant.

(B) **Contested Divorce:** Contested divorces shall be scheduled for final hearing at the Pre-Trial and notice shall be given to all parties.

23.02 **Notice:** In uncontested divorces where there is no counsel of record, the Court shall issue notice to the adverse party pursuant to Civ. R. 75(K).

23.03 **Workshop for Parents:** In order for divorces with minor children to go forward, both parties shall have attended the Court's Workshop for Parents and provide certification of the same to the Court prior to the hearing. Depending upon the facts of the individual case, the Court may not grant a non-appearing Defendant companionship rights until he/she attends the Workshop for Parents.

23.04 **Pre-trial Statement:** The Court's requisite pre-trial statement shall be filed at least seven (7) days prior to the scheduled uncontested divorce.

23.05 **Valuation of Assets:** In uncontested divorces, all marital and separate assets shall be identified and the values of same set forth unless affirmatively waived by the parties, who mutually agree to its division and equitable distribution.

23.06 **Witnesses:** Only one corroborating witness who has personal knowledge of the facts shall be required.

23.07 **Attendance/Dismissal:** In uncontested divorce cases, if the Plaintiff does not attend the final hearing, the Court shall dismiss the case for failure to proceed. If the Defendant appears and wishes to contest any issue, the Court may convert the hearing into a status conference.

23.08 **Judgment Entries:** At the time of the uncontested hearing, counsel for the Plaintiff shall present to the Court a Judgment Entry and all necessary Orders together with sufficient

copies for the CSEA and parties.

- 23.09 **Conversion of Divorce Action to Dissolution Action:** Pursuant to R.C. 3105.08 and 3105.62, an action for divorce may be converted to an action for dissolution upon the filing of a Motion, along with a Petition for Dissolution and Separation Agreement. The Motion, with all supporting documents, shall be submitted to the Court along with an Entry Converting Divorce to Action for Dissolution as set forth in the Appendix.

RULE 24

JUDGMENT ENTRIES

- 24.01 **Preparation:** The Court may order counsel for either party to prepare a Judgment Entry. A copy of the same shall first be submitted to opposing counsel within fourteen (14) days, unless the time is extended by the Court. The parties shall abide by the following protocol:
- (A) The opposing party shall have seven (7) days in which to approve or reject the Judgment Entry.
 - (B) If the opposing party fails to take any action on the Judgment Entry within seven (7) days, the preparer may present the Entry for journalization by certifying that the Judgment Entry was submitted to the opposing party and that no response was made.
 - (C) If a Judgment Entry is not presented to the Court within twenty-one (21) days of the hearing, counsel and parties shall be summoned to appear before the Court.
 - (D) In the event of a dispute over the content of an Entry, the Court may order a transcript of the proceedings and assess the cost of same.
 - (E) Failure of an attorney to comply with the above may result in vacating any award of attorney fees, a finding of contempt, imposition of a fine, or dismissal of a case.
- 24.02 **Signature by Both Parties:** Unless excused by the Court, all agreed judgments and orders shall be signed by both parties and counsel. CSEA Orders, Restraining Orders, Orders Appointing Process Servers, and Orders Permitting Withdrawal as Counsel are excepted from this rule.
- 24.03 **General Contents of Judgment Entries, Decisions and Orders Related to Child Support and Spousal Support:** All judgment entries related to child support or spousal

support shall contain the following information:

1. Names, addresses, social security numbers and dates of birth of the parties and children (if applicable);
2. Place of employment and income of the parties;
3. The amount of child support awarded on a monthly basis, per child, plus processing fee;
4. A provision that child support and/or spousal support is to be paid through the CSEA at its address (currently, 112 W. Commerce St., P.O. Box 119, Youngstown, Ohio 44501-0119) in accordance with obligor's applicable pay period and pursuant to the Notice to Payor to Withhold Income/Assets of Obligor (Form 4047), the Addendum Withholding Notice (Form 4048) and the additional Order and Notice to Parties regarding support orders and health insurance;
5. The effective date of the establishment or modification of support;
6. A provision that one or both of the parties shall provide health care coverage for any minor child or, if not available to either party at a reasonable cost, a provision requiring that coverage be obtained if it subsequently becomes available to either party at a reasonable cost;
7. A provision incorporating the Court's standard Medical Expense Schedule for the sharing of medical expenses not covered by insurance;
8. A provision addressing the amount of any arrearage owed to the appropriate party and a method of repayment plus processing fee through the CSEA.

24.04 Required Documents for Support Orders: The following documents shall accompany all Judgment Entries awarding child support or spousal support:

1. Child Support Worksheet (excluded if only spousal support being ordered)
2. Notice to Payor to Withhold Income/Assets of Obligor (Form 4047)
3. Addendum Withholding Notice to Parties to a Support Order (Form 4048)
4. Notice to Employer to Enroll Employee in Health Insurance Plan (Form 4040)
5. Notice to Employee to Provide Health Insurance

24.05 Advance Submission of Entries: In all uncontested divorces or dissolutions of marriage, counsel shall submit all proposed entries, plans and documents to the Court for its prior review and approval.

24.06 Emancipation: Any Judgment Entry terminating a child support obligation by the

emancipation of a minor child shall set forth the amount of any arrearage owed to the Oblige or to the Department of Human Services, and shall state the method of payment or waiver. If there remain other minor children of the parties, a new child support calculation must be made and the Judgment Entry shall include the modification.

- 24.07 **Required Parenting Language:** In compliance with R.C. 3109.04 and 3109.051, the Court mandates the use of the specific language in Findings of Fact, Orders, Judgment Entries and Decrees which allocate parental rights and responsibilities. (Forms are available from the Court.)
- 24.08 **Required Language for Child Support, Spousal Support and Health Insurance:** In compliance with the applicable provisions of R.C. 3113.21, 3113.215, 3113.217 and related sections, the Court mandates the use of the specific language in Findings of Fact, Orders, Judgment Entries and Decrees which addresses child support, spousal support and/or health insurance. (Forms are available from the Court.)

RULE 25

QUALIFIED DOMESTIC RELATIONS COURT ORDER (QDRO)

25.01 Preparation

- (A) Unless otherwise agreed, the alternate payee entitled to the pension or retirement plan shall be responsible for preparing the Qualified Domestic Relations Order "QDRO" for submission to the Court.
- (B) Whenever the parties agree to divide a pension or retirement program by a QDRO, the parties and counsel shall sign and approve the original of a QDRO submitted to the Court, and shall sign and approve any subsequent QDRO submitted to the Court, unless waived by the Court.
- (C) The QDRO shall be submitted to the Court along with the Judgment Entry for Divorce or Decree of Dissolution of Marriage. The party preparing the QDRO shall be responsible to submit the QDRO to the Plan Administrator for acceptance of same.

RULE 26

WITHDRAWAL OR SUBSTITUTION OF COUNSEL

- 26.01 **Withdrawal:** After entering an appearance as counsel, an attorney shall not be

permitted to withdraw unless:

- (A) Counsel timely files a written motion with the Court stating the grounds for withdrawing from the case, together with a proper certification that counsel has notified the client of all subsequent hearing dates and the necessity for attendance at same, and has notified both the client and opposing counsel of the withdrawal.
- (B) The Court grants the motion.

26.02 **Substitution of Counsel of Record:** Any attorney entering a case on behalf of a party who has had previous representation in the action, shall do so by written notice of substitution filed with the Clerk and hand delivered to the Court.

RULE 27

DISMISSAL OF CASES

- 27.01 **Failure of Service:** If the movant fails to obtain service upon his or her complaint or motion within ninety (90) days of filing, the Court may dismiss the same for want of prosecution.
- 27.02 **Unexcused Absence:** The unexcused failure of an attorney and/or party to appear for a hearing at the scheduled time may subject the offending person to sanctions.
- 27.03 **Failure to Comply:** The Court may dismiss an action upon the showing that either party has failed to comply with all Status Conference or Pre-Trial Orders.

RULE 28

MOTION FOR RELIEF FROM JUDGMENT

- 28.01 **Motions:** All Motions for Relief From Judgment, other than those based upon clerical mistakes, shall comply with Civ. R. 60(B).
- 28.02 **Supporting Materials:** The Motion shall be supported by materials which demonstrate:
- (A) The timeliness of the Motion
 - (B) The reasons for seeking relief
 - (C) A material defense or claim.
- 28.03 **Memorandum:** The moving party shall file a memorandum of fact and law and may

include affidavits, transcripts, depositions, answers to interrogatories, exhibits, and other relevant materials and shall serve a copy upon the opposing party and deliver a copy to the Court.

- 28.04 **Opposition to Motion:** The opposing party may file a brief or memorandum and supporting materials within fourteen (14) days after service of the Motion and shall serve a copy upon the moving party and deliver a copy to the Court.
- 28.05 **Determination:** Except when the Court otherwise orders, Motions for Relief From Judgment shall be determined without oral argument pursuant to Civ. R. 7(B).

PARENTING TIME AND VISITATION

RULE 29

PARENTING TIME AND VISITATION

- 29.01 **Model Schedules:** Pursuant to R.C. Section 3109.051(F)(2), the Court adopts the following Parenting Time Schedules as set forth in the Appendix for use in all new cases, as well as in cases in which the Court specifically orders this current version:
- (A) Local Parenting Time Schedule
 - (B) Long Distance Parenting Time Schedule
 - (C) Transitional Parenting Time Schedule.
- The Court shall have discretion to deviate from these Schedules based upon the factors set forth in R.C. 3109.051(D).
- 29.02 **Traveling outside the State of Ohio:** Parents shall be permitted to travel with their children to locations outside the State of Ohio without notice to the other parent or the Court for periods not to exceed forty-eight (48) hours. For travel periods that will exceed forty-eight (48) hours, the traveling parent shall notify the other parent of such travel plans in writing at least seven (7) days prior to the trip. Said notice shall, at a minimum, include the scheduled departure and return dates, travel arrangements and a telephone number where the child(ren) can be reached in case of an emergency.
- 29.03 **Moving within or outside the State of Ohio:** In the event the Residential Parent decides to relocate within or outside the State of Ohio, said parent shall, at least sixty (60) days prior to the planned move, give written notice to the Court of the intention to

relocate by filing a Notice of Intent to Relocate form issued by the Court. A copy of said notice shall be furnished to the Court's Assignment Commissioner at the time of filing. Upon the filing of said notice, the Court shall mail a copy of the notice to the Non-Residential parent unless the Residential parent objects to said mailing for reasons of alleged domestic violence or abuse or neglect of a child. The Court will not normally schedule a hearing on the notice unless the Non-Residential parent requests the same in writing. The purpose of any such scheduled hearing shall be to determine whether it is in the best interests of the child(ren) to revise the parenting time schedule. If after sixty (60) days, no objection has been raised by the Non-Residential parent, the Court may issue an entry modifying the parenting time schedule as requested by the Residential parent.

- 29.04 **Notice of Intent to Relocate:** The Court shall make available separate notices of Intent to Relocate for parties when the proposed relocation will not result in more than two (2) hours of travel time between the parents, and when the proposed relocation will result in more than two (2) hours travel time between the parents.
- 29.05 **Shared Parenting:** In accordance with R.C. 3109.04(G), plans for shared parenting shall include provisions covering all factors that are relevant to the care of children, including, but not limited to, provisions covering factors such as physical living arrangements, child support obligations, provision for the child(ren)'s medical and dental care, school placement, and the parent with which the children will be physically located during the legal holidays, school holidays and other days of special importance.

RULE 30

WORKSHOP FOR PARENTS

- 30.01 **Mandatory Attendance:** A court approved Workshop for Parents must be attended by the parties prior to final hearings in actions for divorce, legal separation and dissolution of marriage where minor children are involved. A person may be denied companionship rights until the Workshop has been attended.
- 30.02 **Certificate of Attendance:** Upon the completion of the Workshop, a Certificate of Attendance will be issued for each participant and shall be furnished to the Court.
- 30.03 **Motions to Modify Parental Rights:** After the filing of a Motion to modify the

allocation of parental rights and responsibilities, including visitation, each party may be required to attend a parenting class if not previously attended.

RULE 31

GUARDIAN AD LITEM

- 31.01 **Appointment:** Upon the motion of either party or at the discretion of the Court, the Court may order a guardian ad litem appointed at any time when it is essential to protect the interests of a minor child(ren) or a party. Once the matter has been set for trial, no Motion for appointment of guardian ad litem shall be granted except by leave of Court. The duties of the guardian ad litem shall include but not be limited to, meeting with the child alone for discussion, observing the child(ren)'s interaction with each parent and talking with the child(ren)'s other key individuals such as teachers, neighbors and relatives. The guardian shall make a recommendation to the Court. The guardian need not be an attorney.
- 31.02 **Cooperation:** Unless otherwise provided, it is the responsibility of each party involved in the litigation to timely contact the guardian ad litem and to provide the guardian with information relating to the child(ren).
- 31.03 **Report:** Unless otherwise directed by the Court, the guardian ad litem shall prepare a report not less than seven (7) days in advance of the hearing date. The report shall be made available to either parent or counsel not less than seven (7) days prior to the hearing upon written request. The report shall be signed by the guardian who shall be subject to cross-examination concerning the contents of the report.
- 31.04 **Fees:** The Court may initially order either or both parties to deposit with the Clerk of Court a set sum towards the anticipated fee for the guardian ad litem. The Court may set the hourly rate permitted to be charged by the guardian ad litem for services rendered and may award the same at the completion of service upon submission of a detail of hours setting forth the time devoted. Should the deposited amount prove insufficient to cover the fee, the Court shall order the parties to share the balance due in proportionate amounts as the Court deems appropriate.
- 31.05 **Discharge:** Unless otherwise directed, counsel for the parties shall include in the final Entry or Decision a provision for the discharge of the guardian ad litem.

RULE 32

PARENTING INVESTIGATION

- 32.01 **Investigation Involving Minor Children:** The Court may order an investigation as to the character, family relations, past conduct, earning ability and financial worth of the parties to the action. All parties shall submit to the investigatory process.
- 32.02 **Report:** Unless otherwise directed by the Court, pursuant to Civ. R. 75 (D) and R.C. 3109.04, the investigator shall prepare a report for the Court not less than seven (7) days in advance of the hearing date. The report of the investigator shall be made available to either parent or counsel not less than seven (7) days before hearing upon written request. The report shall be signed by the investigator who shall be subject to cross-examination by either party concerning the contents of the report.
- 32.03 **Fees:** The Court may tax as costs all or any part of the fees and expenses of the investigation.

RULE 33

PSYCHOLOGICAL EVALUATIONS

- 33.01 **Appointment:** The Court may order psychological or psychiatric evaluations of the parties, the children or any interested third party. Upon motion of either party, the Court shall determine the necessity for such evaluation.
- 33.02 **Report:** Unless otherwise directed by the Court, the psychologist or psychiatrist will provide the Court with the original written report and recommendations not less than seven (7) days prior to the hearing. The report of the psychiatrist or psychologist shall be made available to either parent or counsel not less than seven (7) before trial upon written request. The report shall be accepted into evidence as the psychologist's or psychiatrist's direct testimony. A party desiring to cross-examine shall arrange for the psychologist's or psychiatrist's appearance at hearing and is responsible for paying the fee for that appearance.
- 33.03 **Fees:** The Court may initially order either or both parties to deposit with the Clerk of Court a set sum towards the anticipated fee for the evaluations. Should the deposited amount prove insufficient to cover the fee, the Court shall order the parties to share the balance due in proportionate amounts as the Court deems appropriate.

RULE 34

INTERVIEWS WITH CHILDREN

- 34.01 **In Camera:** All interviews with children shall be conducted in camera pursuant to the requirements of R.C. 3109.04. The Court may permit counsel or the guardian ad litem to be present. The transcript or tape of the child's interview shall be sealed and neither party shall be permitted to obtain a copy without a court order and for good cause shown.
- 34.02 **Affidavits:** Affidavits signed by children shall not be accepted for filing nor admitted into evidence as exhibits. Pursuant to R.C. 3109.04(B)(3), other exhibits relating to the children such as writings, video and tape recordings, or transcriptions of same, shall not be accepted for filing or admitted into evidence.

RULE 35

CONSENT ENTRIES

- 35.01 **Consent Entries:** A Consent Judgment Entry relating to the allocation of parental rights and responsibilities may be submitted to the Court without the necessity of a Motion or hearing only if signed by both parties, and both counsel. If the party relinquishing the status of residential parent is unrepresented, the case must be scheduled for hearing.

DISPUTE RESOLUTION

RULE 36

FAMILY SERVICES

- 36.01 **Family Services Department:** The Court's Family Services Department shall coordinate all Dispute Resolution and Family Services within the Court, including, but not limited to the screening and assessment of all parenting cases; the coordination of appointment of mediators, conciliators, guardian ad litem, custody investigators, counselors and mental health professionals; the scheduling and monitoring of the attendance of parties at Parenting Workshops; assisting parties in developing companionship schedules and shared parenting plans; providing informal dispute resolution of minor issues; and facilitating agreed changes in the allocation of parental rights and out of state visits and relocation.

- 36.02 **Conciliation:** Pursuant to R.C. 3105.091, at any time after thirty (30) days from service, a party by motion, or the Court sua sponte, may initiate conciliation for any period of time not to exceed ninety (90) days.
- 36.03 **Family Counseling:** If the parties have minor children, the Court may order family counseling during the course of the proceedings and may designate the counselor, type of counseling, length of time and costs or any other specific requirements. The designated counselor shall prepare an Assessment Report and Recommendation for the Court.
- 36.04 **Report and Hearing:** Upon completion of the Conciliation Assessment Report and Recommendation, notice shall be provided to the Court and to counsel for each party or to the party, if proceeding pro se. A hearing shall be set by counsel for the party seeking relief to determine if further orders consistent with the Recommendations are necessary. If no hearing is set, or, if no further orders are made concerning conciliation counseling, the case shall proceed to completion in its normal course.
- 36.05 **Time Limits:** In no case shall an Order for Conciliation Assessment or Conciliation Counseling extend beyond ninety (90) days without leave of the Judge.

RULE 37

MEDIATION

- 37.01 **Procedure:** The Court may order the parties to participate in a mediation process. Mediators shall have the final decision as to which cases are appropriate for mediation. The mediator shall do the following:
- (A) Keep all verbal and written communications confidential;
 - (B) Provide to the parties and their attorneys a summary of any agreement reached or a statement that the mediation has been terminated without agreement;
 - (C) Notify the Court, for purposes of scheduling, that mediation has been concluded.

- 37.02 **Cost:** The Court will permit a fee for the mediation service in accordance with a Court approved Sliding Fee Scale.
- 37.03 **Agreements:** Agreements reached by the parties during mediation shall become an order of the Court after review and approval by each parties' attorney and journalization by the Court.
- 37.04 **Qualifications:** Any mediator employed by the Court, or to whom the Court makes referral, shall have the following minimum qualifications:
- (A) A bachelor's degree or equivalent educational experience and at least two (2) years of professional experience with families. "Professional experience with families" includes counseling, legal representation in family law matters, or equivalent experience that is satisfactory to the Court.
 - (B) Completion of specialized family or divorce mediation training conducted in a program approved by the Commission on Continuing Legal Education in accordance with the administrative guidelines established by the Committee on Dispute Resolution of the Ohio Supreme Court.
 - (C) Adherence to the ethical standards of the mediation profession.

SPECIAL PROCEEDINGS

RULE 38

DOMESTIC VIOLENCE

- 38.01 **Pleading:** An Ex-Parte Civil Protection Order may be initiated by filing a Petition in accordance with the standard Civil Protection Order forms as promulgated by the Supreme Court of Ohio. Such forms and instructions are available from the Court. The pleading must set forth all information required by R.C. 3113.31(C). Any other case involving the Petitioner or Respondent pending in this or any other court shall be disclosed in the Petition.
- 38.02 **Procedure**
- (1) The Petition must be first filed with the Clerk of Court. The Clerk of Court shall not collect a cost deposit for the filing of a Petition.

- (2) A time stamped copy of the Petition shall be presented to the Court for review at the ex-parte hearing. Upon hearing, the Court may grant any relief authorized by R.C. 3113.31(E). The Court may require Respondent to post a bond to assure compliance with the orders issued. The Court shall direct that a copy of its orders be delivered to the Respondent on the same day that the order is entered. All orders issued at the ex-parte hearing shall remain in effect until a full hearing is held.
- (3) If a Protection Order is granted at the ex-parte hearing, the Court shall order the case set for a full hearing. The full hearing shall be scheduled within seven (7) court days of the ex-parte hearing if the Protection Order issued includes an Order described in R.C. 3113.31(E)(1)(b) or (c) [granting possession of a residence]. The full hearing shall be scheduled within ten (10) court days after the ex-parte hearing in all other cases. Failure of service or continuance of the full hearing for any other reason shall not affect the validity of the ex-parte orders granted.
- (4) After the ex-parte hearing, and after the petitioner has obtained a date and time for the full hearing from the Assignment Commissioner, the Petitioner shall immediately present the Civil Protection Order to the Clerk of Court for filing and journalization.
- (5) Petitioner shall cause a copy of the petition, all other documents filed with the petition, the ex-parte orders and a notice of the full hearing date to be served on Respondent. Petitioner shall also cause a copy of the ex-parte orders to be served on any appropriate law enforcement agency that has jurisdiction to enforce the orders pursuant to R.C. 3113.31(F)(1).
- (6) Service shall be ordered through the Mahoning County Sheriff's Office or any other law enforcement agency. The Court may authorize the Petitioner to attempt service upon the Respondent by a special process server upon Petitioner's request, or when service by the sheriff's office is unsuccessful.
- (7) At the full hearing, the issues of protection orders, spousal support, child support, child visitation, counseling and other requested relief shall be addressed. The Court may require Respondent to post a bond to assure compliance with the orders issued. If protection orders or other court orders are issued, or a consent agreement approved, and Respondent is present at the hearing, a copy of the orders or consent agreement shall be served by the Court upon Respondent at that time. Standard Consent Agreement forms are available from the Court. If Respondent fails to appear after proper service, the full hearing shall proceed by default, and upon completion of the hearing Petitioner shall cause a copy of the orders issued to be served upon Respondent. The Court shall direct that a copy of its orders be delivered to the Respondent on the same day that the order is entered.

- 38.03 **Duration of Protective Orders:** Any protection order or other court order issued at the full hearing on the petition shall be effective for five (5) years from its date of filing unless an earlier termination is ordered.
- 38.04 **Counseling:** The Court may order parties to attend counseling and if ordered, the Court will set a review hearing to insure compliance.

RULE 39

REGISTRATION OF A FOREIGN DECREE

39.01 Procedure for Filings Under Uniform Interstate Family Support Act (UIFSA)

- (A) The registration of a foreign order under UIFSA shall be accomplished by the filing of a Petition requesting registration and modification, and alleging the grounds.
- (B) The Petition must be accompanied by two (2) copies (one (1) certified) of the support order to be registered.
- (C) The Petitioner must submit a sworn statement containing the same information required to register enforcement (R.C. 3115.39) and an affidavit stating the last known address of the Obligor and the address of the Obligee.
- (D) The Petitioner shall submit all required financial information on the uniform UIFSA forms so that the support calculations can be completed by the tribunal.
- (E) The Court shall require the Clerk of Court to send, by certified mail, notice of the registration to the Petitioner, Respondent and any initiating tribunal.

39.02 Procedure for filings under Uniform Child Custody Jurisdiction Act (UCCJA)

- (A) The registration of a foreign order shall be accomplished by the filing of:
- (1) A certified copy of the foreign custody decree;
 - (2) An affidavit stating:
 - (a) the pendency of custody proceedings in a foreign jurisdiction;
 - (b) the findings of inconvenient forum by a court of another state;
 - (c) any communications or documents concerning custody proceedings in another state that may affect the jurisdiction of this Court or its ruling in a custody proceeding.

(B) The Clerk of Court, at the request of another state or any person affected by, or having a legitimate interest in the custody decree, shall certify and forward a copy of the decree. 6

39.03 Procedure for filings under Full Faith and Credit

- (A) The enforcement of a foreign order shall be commenced by the filing of:
- (1) a certified copy of the foreign judgment;
 - (2) an affidavit setting forth the names and addresses of the judgment creditor/obligee and judgment debtor/obligor;
 - (3) instructions for the Clerk of Court to send notice of the filing, including the name and address of the judgment creditor/obligee, to the judgment debtor/obligor at the address given.
- (B) A foreign judgment so filed has the same effect and is subject to the same procedures, defenses, and proceedings as a judgment of this Court.

RULE 40

ACTION ON A FOREIGN DECREE

- 40.01 **Modification:** In order to modify a provision concerning allocation of parental rights and responsibilities, or companionship and visitation of a foreign decree, this Court must be able to exercise jurisdiction in accordance with the conditions of R.C. 3109.21 et seq.
- 40.02 **Filing and Service:** The party shall file a Complaint or Motion at the time of registration of the decree and serve the opposing party pursuant to Civ. R. 4 through Civ. R. 4.6. A certified copy of the foreign decree shall be attached to the Petition.
- 40.03 **Compliance with Local Rules:** The party shall comply with Loc. R. 8 and Loc. R. 9.

RULE 41

CONCURRENT JURISDICTION

- 41.01 **Duty of Disclosure:** It shall be the obligation of any party initiating any action in this Court to inform the Court of the status of any other action requested from another court, and the result of said request, or any existing matters of any other court.

RULE 42

CERTIFICATION TO JUVENILE COURT

- 42.01 **Protocol:** The following protocol shall be followed in any case previously certified to the Juvenile Court of Mahoning County, Ohio by this Court relative to minor children.
- (A) If no action was taken in Juvenile Court, the moving party shall first obtain an Order from the Juvenile Court declining jurisdiction.
- (B) If the matter was docketed in the Juvenile Court, the moving party shall file a motion in the Juvenile Court requesting that the matter be assigned for hearing in the Domestic Relations Court. An Order transferring the case shall be obtained from the Juvenile Court.

COURT ADMINISTRATION

RULE 43

CONFLICTS OF INTEREST

- 43.01 **Gifts/Favors:** The Court, including the Judge, Magistrates, and employees shall not accept any gift, favor, or item from any attorney or party.

RULE 44

COURT REPORTERS

- 44.01 **Cases Heard by the Judge:** In matters heard by the Judge, the court reporter shall be provided by the Court and taxed as costs.

- 44.02 **Cases heard by the Magistrate:** All matters heard by a Magistrate will be recorded by an audio tape recorder, unless otherwise agreed by the parties.
- 44.03 **Preservation of Tapes:** All tapes shall be preserved by the Court for not less than thirty (30) days after the decision is issued.
- 44.04 **Transcripts and Tapes:** Upon request and payment of a deposit to cover the cost of transcription of a hearing held before the Judge, an official court reporter will prepare a transcript of the proceeding. An audio tape of a Magistrate's hearing will be made available upon request for transcription by a court reporter.
- 44.05 **Official Record:** The transcript, not the tape, shall constitute the official record of the proceeding.

RULE 45

COURT SECURITY

- 45.01 **Searches:** In order to maintain appropriate security for the public and court personnel, the Court may require that all persons entering the courthouse and the Domestic Relations Court submit to a search of their persons and property.
- 45.02 **Weapons:** No weapons or other instruments which may cause bodily harm shall be permitted in the Domestic Relations Court.
- 45.03 **Supervision:** It shall be the duty of the Court Administrator to supervise and maintain all security in the Domestic Relations Court.

RULE 46

PHOTOGRAPHING, RECORDING AND BROADCASTING OF COURT PROCEEDINGS

- 46.01 **Procedures:** In compliance with Sup. R. 12, the Court shall permit the broadcasting, televising, recording or photographing of public court proceedings.
- (A) Request for permission to broadcast, televise, record, or photograph in a Court room shall be made in writing to the Domestic Relations Court.
- (B) The Court shall immediately inform the attorneys for all the parties in the case of a media request.

(C) A journal entry shall be issued setting forth the conditions thereto.